

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

JAIME NOEL SEPULVEDA CARRERO

Plaintiff,

v.

JOHN V. RULLAN,

Defendant.

CIV. NO. 01-1907 (PG)

**OPINION AND ORDER**

Before the Court is defendant's Motion Requesting the Entry of a Bill of Costs and the Impositions of Attorneys' Fees. (Docket No. 62.) For the following reasons the Court, GRANTS IN PART defendant's motion.

**BACKGROUND**

On July 12, 2001, plaintiff filed suit against John V. Rullan, the Commonwealth of Puerto Rico, and three unknown co-defendants (collectively "defendants") alleging political discrimination. Defendants filed several dispositive motions and as a result, all of plaintiff's claims were dismissed with the exception of the first amendment claim against defendant Dr. John V. Rullan ("Rullan" or "defendant") in his personal capacity. The day the case was scheduled to go to trial, defendant made a settlement offer of \$12,000.00 but was refused by plaintiff. Following a three-day jury trial, the Court granted defendant's Rule 50 motion finding plaintiff had failed to prove a prima-facie case of political discrimination and dismissed the case. (Docket Nos. 56, 57, 58, & 60.) Judgment was entered on March 09, 2004. (Docket No. 60.) A month later, Rullan filed the motion presently before the Court.

**DISCUSSION**

**I. ATTORNEY FEES**

Under the so called "American Rule," litigants must bear the cost of their attorney's fees in the absence of explicit congressional

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authorization to the contrary. Christiansburg Garment Co., v. EEOC., 434 U.S. 412, 415 (1978); Bercovitch v. Baldwin School, 191 F. 3d 8, 10 (1st Cir. 1999). Congress, however, has authorized the award of attorneys' fees under 42 U.S.C. §1988 for prevailing plaintiffs in §1983 cases. Tejada-Batista v. Fuentes-Agostini, 263 F.Supp.2d 321, 326 (D.P.R. 2003). To determine the amount of attorneys' fees, courts in this Circuit must apply the "lodestar" approach which requires that the Court calculate first, the prevailing hourly rate, and second, the time spent performing the various legal tasks, subtracting those which are excessive, duplicative, or unnecessary. Id. at 326-27. See Gay Officer Action League v. Puerto Rico, 247 F.3d 288, 295 (1st Cir. 2001).

## II. ANALYSIS

Rullan's attorneys allege that they worked a total of 204.25 hours in the case, at various rates ranging from \$75.00 to \$125.00 per hour, totaling an award of \$31,736.25 in fees. They argue that as the prevailing party, they are entitled to such fees. Four attorneys seek reimbursement: Frederic Chardon-Dubos, Luis A. Rodriguez-Muñoz, Eileen Landron-Guardiola, and a fourth unnamed attorney identified throughout the time sheets as MTF. Plaintiff objects to defendant's motion arguing that the request for attorneys' fees should be denied because it would be unfair to impose the burden of costs and attorneys' fees upon plaintiff for having exercised his right to vindicate his constitutional rights. Plaintiff argues that defendant's attorneys' request is excessive. However, he fails to indicate what portions of the attorneys' billing hours should be reduced or whether the hourly rates billed are unreasonable.

The Court first determines the appropriate hourly rate. According to the lodestar method, "the hourly rate should be 'in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation'." Tejada-Batista, 263

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F.Supp.2d at 327 (quoting Blum v. Stenson, 465 U.S. 886, 895 (1984)).

"In reaching its determination, the court may rely upon its own knowledge of attorneys' fees in the community." Rodriguez v. International College of Business and Technology, Inc., 356 F.Supp.2d 92, 96 (D.P.R. 2005) (citing Missouri v. Jenkins by Agyei, 491 U.S. 274, 285 (1989)).

Defendant's attorneys request the following rates for each attorney: Frederic Chardon-Dubos, \$125.00 per hour; Luis A. Rodriguez-Muñoz, \$100.00 per hour; Eileen Landron-Guardiola, \$125.00 per hour; and MTF, \$100.00 per hour. Presumably, the higher the rate, the more experienced the attorney. Rullan's attorneys do not, however, include affidavits supporting each attorney's hourly rates. Neither do they differentiate the rates for out-of-court time from the in-court time rate. Defendant's attorneys simply state that the rates charged do not exceed the rate of the local market and, in some instances, are lower than the prevailing rate in the community. They also cite Santiago v. Mercado, 175 F.Supp.2d 164 (D.P.R. 2001), in which this district found reasonable an hourly rate of \$140.00 for out-of-court time and \$160.00 for in-court time.

Recent case law reviewed indeed shows that \$100.00 and \$125.00 are not unreasonable or excessive, however, Courts usually award different rates depending on whether the time was invested in-court or out of court. See Ciudadana v. Gracia-Morales, 359 F.Supp.2d 38, 45 (D.P.R. 2005) (finding rates of \$200.00 an hour for out of court work and \$225.00 an hour in-court work justified); Rodriguez, 356 F.Supp.2d at 96 -97 (finding rate of \$190 and \$125 to be appropriate); Top Entertainment Corp. v. Torrejon, 349 F.Supp.2d 248, 253 -255 (D.P.R. 2004) (finding hourly rate of \$125.00 reasonable); Anywhere, Inc. v. Romero, 344 F.Supp.2d 345, 348 (D.P.R. 2004) (finding rate of \$250 to be appropriate for one attorney and rate of \$150 per hour, with some hours billed at \$75, to be appropriate rates for another less experienced attorney); Vieques

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Conservation and Historical Trust, Inc. v. Martinez, 313 F.Supp.2d 40, 47 (D.P.R. 2004) (reducing attorney's hourly rate to \$225 to equate with local attorneys rates); Tejada-Batista, 263 F.Supp.2d 321, 328 (D.P.R. 2003) (finding rate of \$150 per out-of-court hours and \$175 per in-court hours in line with the rates prevailing in our legal community).

The Court has carefully reviewed the defendant's attorneys' itemized invoices of the work performed in the case. They claim they invested 204.25 hours trying this case, however, a detailed review of the time sheets reveals they actually spent 175.50. Of these, 126 are billed at \$125.00 per hour and 48.50 at \$100.00 per hour. Likewise, of the 126 hours billed at an hourly rate of \$125.00, 28 hours were invested in-court, and of the 48.50 billed at \$100.00 per hour, 19.75 hours were invested in-court.

After carefully reviewing the applicable case law, the Court finds that the time invested in-court should not be compensated at the same hourly rate as out of court time. Accordingly, the court reduces the rates as follows: Attorney Frederic Chardon-Dubos' in-court time will be awarded at an hourly rate of \$115.00 and his out-of-court time will be reduced to \$90.00; Attorney Luis A. Rodriguez-Muñoz' in-court time will be awarded at a rate of \$100.00 per hour, and his out-of-court time will be reduced to \$90.00; Attorney Eileen Landron-Guardiola's out-of-court time rate will be reduced to \$100.00; and MTF's out-of-court time rate will be reduced to \$90.00.

With regards to the time spent performing the various legal tasks, the Court and finds that the hours invested in and out of court are not duplicative or excessive. The Court will, however, deduct the hours invested in preparing the motion seeking fees. Accordingly, 5.75 hours billed at \$90.00 per hour will be deducted, and 2.50 hours billed at \$90.00 per hour will be deducted.

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Accordingly, the Court awards each attorney the following fees:

<b>Attorney Frederic Chardon-Dubos'</b> In-court time: 28 hrs x \$115.00p/h = \$ 3,220.00 Out-court time: 95.50 hrs x \$ 90.00p/h = \$ 8,595.00	<b>\$11,815.00</b>
<b>Attorney Luis A. Rodriguez-Muñoz</b> In-court time: 19.75 hrs x \$100.00p/h = \$ 1,975.00 Out-court time: 23 hrs x \$ 90.00p/h = \$ 2,070.00	<b>\$4,045.00</b>
<b>Attorney Eileen Landron-Guardiola</b> Out-court time: 1.50 hrs x \$100.00p/h = \$ 150.00	<b>\$150.00</b>
<b>Attorney MTF</b> Out-court time: 2.50 hrs x \$ 90.00p/h = \$ 225.00	<b>\$225.00</b>
<b>TOTAL AWARD</b>	<b>\$16,235.00</b>

Lastly, defendants' also seek reimbursement for paralegal work. "Attorneys' fees for a prevailing party also include the work of paralegals." Santiago, 175 F.Supp.2d at 172 (citing Missouri, 491 U.S. at 285). See Figueroa-Torres v. Toledo-Davila, 232 F.3d 270, 277 (1st Cir. 2000). Defendants request a rate of \$35.00 for 0.50 hours of paralegal work. The Court approves the amount of time claimed, and accordingly awards \$17.50 for paralegal work.

The Court further NOTES that Defendant has filed a Verified Bill of Costs (Docket No. 61). The Clerk SHALL tax costs as it deems appropriate.

#### CONCLUSION

WHEREFORE, defendant's Motion for Attorneys' Fees (Docket No. 62) is GRANTED IN PART. Accordingly, defendant's attorneys are awarded \$16,235.00 in fees.

**IT IS SO ORDERED.**

In San Juan, Puerto Rico, August 15, 2005.

S/JUAN M. PEREZ-GIMENEZ  
U.S. District Judge